

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 97-0201 MVE
MOTOR VEHICLE EXCISE TAX
For The Tax Period: 1995**

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ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78, IC 9-18-2-1, IC 6-3-2-6, *Black's Law Dictionary* 484 (6th ed. 1990).

The Taxpayer protests the imposition of the motor vehicle excise tax on his 1993 Mazda.

STATEMENT OF FACTS

Taxpayer was assessed the Motor Vehicle Excise Tax on a 1993 Mazda for a period of September 1995 to June 1996. Taxpayer sent a written protest of this assessment to the Department. After making several attempts to contact the Taxpayer, an administrative hearing was scheduled in which the Taxpayer failed to appear. The Letter of Finding is based on information previously submitted by the Taxpayer. More facts will be provided as necessary.

I. Motor Vehicle Excise Tax: Imposition

DISCUSSION

Pursuant to IC 9-18-2-1, within sixty days of becoming an Indiana resident, a person must register all motor vehicles owned by that person that will be operated in Indiana.

IC 9-13-2-78 defines "Indiana resident" as a person who is one of the following:

- (1) A person who has been living in Indiana for a least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education
 - (B) Serving on active duty in the armed forces of the United States.
- (2) A person who is living in Indiana if the person has no other legal residence.
- (3) A person who is registered to vote in Indiana.
- (4) A person who has a child enrolled in an elementary or secondary school located in Indiana.
- (5) A person who has more than one-half (1/2) of the person's gross income derived from sources in Indiana... However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

Taxpayer concedes that he was present in Indiana from September 30, 1995 through December 31, 1995. Yet, Taxpayer argues that he should not be assessed because he maintained other residences in Utah and Mississippi and was not present in Indiana to establish residency. Taxpayer does not provide any evidence that either of the other two residences was considered his domicile.

A person may have more than one residence but only one domicile. A domicile is defined by Black's Law Dictionary as, "[a] person's legal home. That place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning." *Black's Law Dictionary* 484 (6th ed. 1990). Here, Taxpayer claimed a renter's deduction on his 1995 Indiana individual income tax return. Pursuant to IC 6-3-2-6 (a):

Each taxable year, an individual who rents a dwelling for use as his principal place of residence may deduct from his adjusted gross income, as defined in IC 6-3-1-3.5(a), the lesser of:

- (1) the amount of rent paid by him with respect to the dwelling during the taxable year; or
- (2) two thousand dollars (\$2,000).

By claiming the renter's deduction on his Indiana tax return, Taxpayer has conceded that he considered Indiana as his principal place of residence.

FINDING

The Taxpayer's protest is respectfully denied. Taxpayer has failed to prove his legal residence was somewhere other than Indiana throughout the assessment period. As an Indiana resident, Taxpayer was required to license and register his vehicle in Indiana.